

March 25, 2011

Re : HB 627 - Referendum to revise parental notice of abortion and judicial bypass

Dear Members of the House Judiciary Committee:

Disability Rights Montana opposes this measure insofar as it repeats the error of SB 97 in including adult individuals with any type of guardianship within the scope of a new parental notification of abortion law.

HB 627 defines individuals with any guardianship as "incompetents." Not only is this term offensive, it contradicts current state guardianship law, which clearly provides that where a person is determined to be incapacitated for purposes of a full, temporary or limited guardian, that person is not presumed to be incompetent. Mont. Code Ann. § 72-5-306.

The measure goes on to require these adults to contact their guardians prior to having abortion procedures. For those individuals who have been appointed guardians to make medical decisions, this bill is wholly unnecessary as these guardians will be making these decisions already. However, for those individuals who have been appointed limited guardians for purposes other than medical decision making, such as limited guardians for financial purposes, this measure would unconstitutionally infringe upon the rights of these adults to make medical and reproductive decisions.

In addition, HB 627 repeats the same omissions in SB 97 to protect individuals with guardians as it does minors. For example, although Section 7 of both SB 97 and HB 627 prohibit parents or guardians of minors from coercing that minor to have an abortion, it fails to provide this protection for those with guardians. In addition, Sections 5, 8, 9 (3), 11 similarly fail to adequately include and provide for these adults who will be subject to this law.

I understand that an amendment to remove all references to these adults will be moved during committee action on SB 97. Please consider a similar amendment to HB 627.

Thank you,

Beth Brenneman, Staff Attorney  
Disability Rights Montana